

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

ELAINE L. CHAO, SECRETARY OF LABOR,
UNITED STATES DEPARTMENT OF LABOR,
Plaintiff,

v.

STATE OF WASHINGTON, DEPARTMENT
OF SOCIAL AND HEALTH SERVICES,

Defendants

CIVIL ACTION

CASE NO.

COMPLAINT – Labor
29 U.S.C. §201, *et seq.*

I

Plaintiff brings this action, pursuant to Section 17 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. § 201 *et seq.*), (“the Act”), to enjoin Defendant from violating the provisions of Sections 15(a)(2) and 15(a)(5) of the Act. Plaintiff also and separately brings this action, (1) pursuant to Section 16(c) of the Act for the recovery of a Judgment against Defendant for unpaid overtime compensation due Defendant’s employees employed as case-carrying Social Worker IIs and case-carrying Social Worker IIIs, and liquidated damages in an amount equal thereto, or in the event liquidated damages are not awarded, pre-judgment interest computed on the unpaid wages due, and (2) pursuant to Section 17 of the Act for recovery of a Judgment restraining the Defendant from withholding payment of unpaid overtime compensation due Defendant’s employees plus pre-

COMPLAINT - PAGE 1 OF 4

U.S. DEPARTMENT OF LABOR
OFFICE OF THE SOLICITOR
1111 Third Ave., Suite 945
Seattle, WA 98101
Telephone: (206) 553-0940
Facsimile: (206) 553-2768

1 judgment interest computed thereon.

2 II

3 Jurisdiction of this action is conferred by Sections 16(c) and 17 of the Act and 28 U.S.C. §§
4 1331 and 1345.

5 III

6 Defendant is the Department of Social and Health Services, a Washington State agency
7 represented by the Attorney General, with facilities employing public employees throughout the
8 state with its headquarters at 1115 Washington Street, SE, Olympia, WA 98504, within jurisdiction
9 of this Court.

10 IV

11 At all relevant times Defendant has been a public agency in the state of Washington and
12 employed people in its offices to fulfill its purpose. Said employees, by reason of their employment
13 at a public agency were and are engaged in commerce within the meaning of the Act. Public
14 agencies are, by statute, engaged in commerce or in the production of goods for commerce. 29
15 U.S.C. § 203(s)(1)(C). The FLSA's provisions apply to any employer whose employees are engaged
16 in commerce or in the production of goods for commerce. 29 U.S.C. § 202(a).

17 V

18 Defendant has repeatedly violated and is violating the provisions of Sections 7 and 15(a)(2)
19 of the Act by employing many of their employees engaged in commerce or in the production of
20 goods for commerce, or in an enterprise engaged in commerce or in the production of goods for
21 commerce, for workweeks longer than forty (40) hours since February 18, 2006, without
22 compensating said employees for their employment in excess of 40 hours in such work weeks at
23 rates not less than one and one-half the regular rates at which they were employed.

24 VI

25 Defendant has violated the provisions of sections 11 and 15(a)(5) of the Act (29 U.S.C. §§
26 211 and 215(a)(5)) by failing to make, keep, and preserve records of the wages, hours, and other
27 conditions and practices of employment maintained by the Defendant, as required by the Act.

28 **COMPLAINT - PAGE 2 OF 4**

U.S. DEPARTMENT OF LABOR
OFFICE OF THE SOLICITOR
1111 Third Ave., Suite 945
Seattle, WA 98101
Telephone: (206) 553-0940
Facsimile: (206) 553-2768

VII

Defendant has violated the monetary provisions of the Act as alleged in paragraph 5 above, and, as a result, Defendant is liable for unpaid overtime compensation under Section 16(c) of the Act.

WHEREFORE, cause having been shown, Plaintiff prays for a Judgment against Defendant as follows:

(1) For an Order pursuant to Section 17 of the Act permanently enjoining and restraining Defendant, including officers, agents, servants, employees, and all persons acting in their behalf and interest, from prospectively violating the provisions of Sections 15(a)(2) and 15(a)(5) of the Act; and

(2) For an Order

(a) pursuant to Section 16(c) of the Act finding Defendant liable for unpaid overtime compensation found by the Court to be due Defendant's employees, and liquidated damages equal in amount to the unpaid compensation found due Defendant's employees (named in the attached Exhibit "A") employed as case-carrying Social Worker IIs and case-carrying Social Worker IIIs, or, in the event liquidated damages are not awarded, pre-judgment interest computed on the unpaid wages due, and

(b) pursuant to Section 17 enjoining and restraining the Defendant, its officers, agents, servants, employees, and all persons acting in its behalf and interest from withholding payment of unpaid overtime compensation found due Defendant's employees and pre-judgment interest computed at the underpayment rate established by the Secretary of Treasury pursuant to 26 U.S.C. § 6621; and

(3) For an Order granting such other and further relief as may be necessary and appropriate.

///

///

///

COMPLAINT - PAGE 3 OF 4

U.S. DEPARTMENT OF LABOR
OFFICE OF THE SOLICITOR
1111 Third Ave., Suite 945
Seattle, WA 98101
Telephone: (206) 553-0940
Facsimile: (206) 553-2768

1 Respectfully submitted this 30th day of July, 2008.

2
3 Gregory F. Jacob
4 Solicitor of Labor

5 Lawrence Brewster
6 Regional Solicitor

7 Bruce L. Brown
8 Associate Regional Solicitor

9 Jeannie Gorman
10 Senior Trial Attorney

11 /s/ Jeannie Gorman
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27